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§ 774.1 INTRODUCTION

(a)   In this part, references to the EAR are references to 15 CFR chapter VII, subchapter C. The Bureau of Industry and Security (BIS) maintains the Commerce Control List (CCL) that describes items (i.e., commodities, software, and technology) subject to the jurisdiction of the EAR. The CCL does not include those items exclusively controlled for export by another department or agency of the U.S. Government. In instances where other agencies administer controls over related items, entries in the CCL will contain a reference to these controls. Those items subject to the EAR but not specified on the CCL are identified by the designator "EAR99." See §734.2(a) of the EAR for items that are "subject to the EAR." You should consult part 738 of the EAR for an explanation of the organization of the CCL and its relationship to the Country Chart.

(b)   Items that warrant control on the CCL, but for which a classification has yet to be determined, are temporarily classified under one of the 0Y521 ECCNs (i.e., 0A521, 0B521, 0C521, 0D521 or 0E521), according to their respective product group, pursuant to § 742.6(a)(7) of the EAR, while a determination is made as to whether classification under a revised or new ECCN, or an EAR99 designation, is appropriate. The technical description and list of such items appear in Supplement No. 5 to part 774 – Items Classified Under ECCNs 0A521, 0B521, 0C521, 0D521 and 0E521. Items that the U.S. Government determines are more appropriately captured under the United States Munitions List (USML) Category XXI (Miscellaneous Articles) or other USML control, as part of the 0Y521 review process will be controlled as such.

(c)   The CCL is contained in Supplement No. 1 to this part, and Supplement No. 2 to this part contains the General Technology and Software Notes relevant to entries contained in the CCL.

§774.2 [RESERVED]

SUPPLEMENT NO. 1 TO PART 774 – THE COMMERCE CONTROL LIST

The Commerce Control List is in a separate file.

SUPPLEMENT NO. 2 TO PART 774 - GENERAL TECHNOLOGY AND SOFTWARE NOTES

1. *General Technology Note*. The export of "technology" that is "required" for the "development", "production", or "use" of items on the Commerce Control List is controlled according to the provisions in each Category.

"Technology" "required" for the "development", "production", or "use" of a controlled product remains controlled even when applicable to a product controlled at a lower level.

License Exception TSU is available for "technology" that is the minimum necessary for the installation, operation, maintenance (checking), and repair of those products that are eligible for License Exceptions or that are exported under a license.

N.B.: This does not allow release under a License Exception of the repair "technology" controlled by 1E002.e, 1E002.f, 8E002.a, or 8E002.b.

N.B.: The 'minimum necessary' excludes "development" or "production" technology and permits "use" technology only to the extent "required" to ensure safe and efficient use of the product. Individual ECCNs may further restrict export of "minimum necessary" information.

2. *General Software Note*. License Exception TSU (mass market software) (see § 740.13 of the EAR) is available to all destinations, except countries in Country Group E:1 of Supplement No. 1 to part 740 of the EAR, for release of "software" which is any of the following:

1. Generally available to the public by being:

a. Sold from stock at retail selling points, without restriction, by means of:

1. Over the counter transactions;

2. Mail order transactions;

3. Electronic transactions; *or*

4. Telephone call transactions; *and*

b. Designed for installation by the user without further substantial support by the supplier.

2. [RESERVED] See § 734.3(b)(3) for "publicly available technology and software."

3. The minimum necessary "object code" for the installation, operation, maintenance (checking) or repair of those items whose export has been authorized.

Note: Minimum necessary "object code" does not enhance or improve the performance of an item or provide new features or functionality.

Note: The General Software Note does not apply to "software" controlled by Category 5 -part 2 "Information Security"). For "software" controlled by Category 5, part 2, see Supplement No. 1 to part 774, Category 5, part 2, Note 3 – Cryptography Note.

SUPPLEMENT NO. 3 TO PART 774 – STATEMENTS OF UNDERSTANDING

(a) Statement of Understanding - medical equipment.

Commodities that are 'specially designed for medical end-use' that 'incorporate' commodities or software on the Commerce Control List (Supplement No. 1 to part 774 of the EAR) that do not have a reason for control of Nuclear Nonproliferation (NP), Missile Technology (MT), or Chemical & Biological Weapons (CB) are designated by the number EAR99 (i.e., are not elsewhere specified on the Commerce Control List).

Notes to paragraph a:

(1) 'Specially designed for medical end-use' means designed for medical treatment or the practice of medicine (does not include medical research).

(2) Commodities or software are considered 'incorporated' if the commodity or software is: Essential to the functioning of the medical equipment; customarily included in the sale of the medical equipment; and exported or reexported with the medical equipment.

(3) Except for such software that is made publicly available consistent with § 734.3(b)(3) of the EAR, commodities and software 'specially designed for medical end-use' remain subject to the EAR.

(4) See also § 770.2(b) interpretation 2, for other types of equipment that incorporate items on the Commerce Control List that are subject to the EAR.

(5) For computers used with medical equipment, see also ECCN 4A003 note 2 regarding the "principal element" rule.

(6) For commodities and software specially designed for medical end-use that incorporate an encryption or other "information security" item subject to the EAR, see also Note 1 to Category 5, Part II of the Commerce Control List.

(b) Statement of Understanding - Source Code.

For the purpose of national security controlled items, "source code" items are controlled either by "software" or by "software" and "technology" controls, except when such "source code" items are explicitly decontrolled.

(c) Category 5 - Part 2 - Note 4 Statement of Understanding.

All items previously described by Notes (b), (c) and (h) to 5A002 are now described by Note 4 to Category 5 - Part 2. Note (h) to 5A002 prior to June 25, 2010 stated that the following was not controlled by 5A002:

Equipment specially designed for the servicing of portable or mobile radiotelephones and similar client wireless devices that meet all the provisions of the Cryptography Note (Note 3 in Category 5, Part 2), where the servicing equipment meets all of the following:

  (1) The cryptographic functionality of the servicing equipment cannot easily be changed by the user of the equipment;

  (2) The servicing equipment is designed for installation without further substantial support by the supplier; and

(3) The servicing equipment cannot change the cryptographic functionality of the device being serviced.

(d) Statement of Understanding—Used Goods.

The specifications in the Commerce Control List apply equally to new or used goods. In the case of used goods, an evaluation by the Bureau of Industry and Security may be carried out in order to assess whether the goods are capable of meeting the relevant specifications.

SUPPLEMENT NO. 4 TO PART 774 [RESERVED]

SUPPLEMENT NO. 5 TO PART 774 - ITEMS CLASSIFIED UNDER ECCNS 0A521, 0B521, 0C521, 0D521 AND 0E521

The following table lists items subject to the EAR that are not listed elsewhere in the CCL, but which the Department of Commerce, with the concurrence of the Departments of Defense and State, has identified warrant control for export or reexport because the items provide at least a significant military or intelligence advantage to the United States or for foreign policy reasons.

Item descriptor. *Note:* **The description must match by model number or a broader descriptor that does not necessarily need to be company specific.**	Date of initial or subsequent BIS classification. (ID = initial date; SD = subsequent date)	Date when the item will be designated EAR99, unless reclassified in another ECCN or the 0Y521 classification is reissued.	Item-specific license exception eligibility.
0A521. Systems, Equipment and Components.			

No.1
Biosensor systems and dedicated detecting components, i.e. cartridges and cells, capable of detecting all of the following aerosolized bioagents: anthrax, ricin, Botulinum toxin, Francisella tularensis, orthopoxvirus and Yersinia pestis, and having all of the following characteristics:
  a. Capable of showing results in three minutes or less;
 	
  b. Has an integrated bioaerosol collector
	March 28, 2013 (ID)	March 28, 2014	License Exception GOV under § 740.11(b)(2)(ii) only.

and identifier; c. Contains antibodies for any of the bioagents listed above; and d. Utilizes bioluminescence as a process. *Related Controls (1)*See ECCN 1A004.c for detection systems and ECCN 2B351 for toxic gas monitoring systems and their dedicated detecting components, both of which are different from ECCN 0A521*Biosensor Systems. (2)* See 22 CFR Part 121, Category XIV (f) (2) for equipment for the detection, identification, warning or monitoring of biological agents that is subject to the export licensing jurisdiction of the U.S. Department of State, Directorate of Defense Trade Controls. Technical Notes: 1. For the purposes of this entry, the term dedicated means committed entirely to a single purpose or device. 2. This entry does not control biosensor systems that detect food borne pathogens.			

0B521. Test, Inspection and Production Equipment.
[RESERVED]

0C521. Materials.			
[RESERVED]			
0D521. Software.			
No. 1 0D521 "Software" for the function of Biosensor Systems controlled by ECCN 0A521.	March 28, 2013 (ID)	March 28, 2014	License Exception GOV under § 740.11(b)(2)(ii) only.
No.2 "Source code" for the "development" of fly-by-wire control systems.	June 20, 2013 (ID)	June 20, 2014	License Exception GOV under § 740.11(b)(2)(ii) only.
0E521. Technology.			
No. 1 0E521 "Technology" for the "development" or "production" of Biosensor Systems controlled by ECCN 0A521.	March 28, 2013 (ID)	March 28, 2014	License Exception GOV under § 740.11(b)(2)(ii) only.
No. 2 [RESERVED]	[RESERVED]	[RESERVED]	[RESERVED]
No. 3 [RESERVED]	[RESERVED]	[RESERVED]	[RESERVED]
No. 4 [RESERVED]	[RESERVED]	[RESERVED]	[RESERVED]
No. 5 [RESERVED]	[RESERVED]	[RESERVED]	[RESERVED]

No. 6
"Technology" for fly-by-wire control systems, as follows:
   a. "Technology" according to the General Technology Note for the "development" of "software" controlled by 0D521; or
   b. "Development" "technology" for "active flight control systems" for control law compensation for sensor location or dynamic
	June 20, 2013 (ID)	June 20, 2014	License Exception GOV under § 740.11(b)(2)(ii) only.

airframe loads, i.e., compensation for sensor vibration environment or for variation of sensor location from the center of gravity.			